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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 JUL 26 PM 4:40 ✓

LAHNE HICKS, CLERK

B. Chamberlain
BY: _____

IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

Cause No. P1300CR20081339

MOTION TO DELAY TRIAL BASED
UPON DEFENDANT'S MEMORANDUM
DATED JULY 26, 2010

Honorable Warren Darrow
Division 6

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby requests the jury trial be delayed unless this court, on July 27th, 2010 summarily dismisses defendant's pleading filed on July 26, 2010 titled Bench Memorandum on Prior Rulings Regarding Testimony of Kennedy, Mascher & Winslow.

MEMORANDUM IN SUPPORT OF THIS MOTION

The defense team was sent at list of the State's forthcoming witnesses a least a week in advance of their anticipated testimony. The defense was notified on July 9th that Det. Kennedy would be testifying as early as July 15, 2010. The Defense had sufficient notice to file a motion to clarify/reconsideration the scope of her testimony as requested by this court before trial resumed on July 21, 2010.

1 On July 22, 2010, the defense began arguing the scope of Det. Kennedy's testimony, in
2 chambers, during a discussion of pending jury questions. The defense also argued the scope of
3 Det. Winslow and Commander Masher's testimony. This court stated the scope of Det.
4 Kennedy's testimony which was consistent with prior rulings.

5 The in chambers bombardment was no accident. The defense team was ready and had
6 in hand court transcripts from Judge Lindberg's hearings which the defense said occurred on
7 April 10 and April 28, 2010. The April 28th transcript is over 200 pages long. The State is still
8 trying to verify if there is a transcript dated April 10th, 2010. Defense counsel, taking Judge
9 Lindberg words out of context, pressed this court to rule in their favor. They chose the moment
10 to ambush the State and the court, right in the middle of an informal discussion of jury
11 questions. The planned assault was done without notice to the court and the State and lacked
12 professionalism.
13

14 The next day, in front of the jury, counsel for the defense repeatedly interrupted the
15 prosecutor during his direct examination of Det. Kennedy on matters Judge Lindberg and this
16 court previously approved. Trial for the day was cut short and the defense again re-argued the
17 scope of Det. Kennedy's testimony.
18

19 Now, hours before trial is to begin the defense filed a 15 page memorandum which is a
20 thinly veiled motion for reconsideration. It was delivered to the County Attorney's mail box at
21 the court house so the prosecutors did not receive a copy until after lunch on July 26, 2010.
22 Previously, the defense has emailed every pleading to the State but in this case chose not to.
23

24 This pleading should be stricken for exceeding the maximum page limit without court
25 approval. Not expecting that will happen, the State does not have time to respond to this
26 pleading before the start of trial tomorrow morning.

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1 If this court is going to allow argument on defendant's memorandum/motion for
2 reconsideration, the State needs a reasonable amount of time to respond. The defendant, on
3 page 2 of his memorandum agrees, this issue must be resolved before Det. Kennedy can
4 resume her testimony and that means the trial will have to be delayed.

5 RESPECTFULLY SUBMITTED this 26th day of July, 2010.
6
7

8 Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

9
10 By: 

11 Jeffrey Paupore
12 Deputy County Attorney
13
14

15 COPIES of the foregoing delivered this
16 26th day of July, 2010 to:

17 Honorable Warren Darrow
18 Division 6
19 Yavapai County Superior Court
(via email)

20 John Sears
21 511 E.. Gurley St.
22 Prescott, AZ 86301
Attorney for Defendant
(via email)

23
24 Larry Hammond
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